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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/727,546 | 12/05/2003 | Hisayoshi Tsubaki | 2091-0302P | 7320 |
| 2292 7590 02/05/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | EXAMINER PETERSON, CHRISTOPHER K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2622 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 02/05/2008 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| | | | |
|---|--|---|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/727,546 | Applicant(s) TSUBAKI, HISAYOSHI | |
| | Examiner Christopher K. Peterson | Art Unit 2622 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37 (e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-18.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 26 December 2007 have been fully considered but they are not persuasive.

As to claims 1, 10, 12, and 18, the Applicant has amended claim 1 to include the limitations of claim 5. The Applicant argues that the new ground of rejection was not necessitated by Applicant's amendment. Applicant respectfully submits that the limitation of "carrying a terminal device" has been a claimed element in every independent claim since filing. The limitation "carrying a terminal device" was not what necessitated the new grounds of rejection. The limitation of "wherein the terminal device carried by the subject comprises a display means for displaying the image data and an **integrated** subject communication means for wirelessly communicating data, wherein the data includes a unique identification code identifying the terminal device (Amended claim language of claim 1, Amendment-After Non-final Rejection) ^{filed 6/29/07} _λ.

The Applicant cited on page 8 of Amendment-After Non-final Rejection that Moores teaches when a PDA is to be used, the individual was required to carry two devices. There is no suggestion in Moores to combine the devices and it is respectfully submitted that it would not have been obvious to do so to one of ordinary skill in the art at the time of the invention. Therefore, Applicant respectfully submits that the independent claims are patentably distinct over Moores and are in a condition for allowance. The Applicant also cites by contrast, in the present invention, the terminal

device carried by the subject is the only device necessary. As specified in the independent claims, the terminal device comprises a wireless communication means, which may in one embodiment be an **RFID tag or similar device, and a display means, which may in one embodiment be the screen of a PDA**. Applicant respectfully notes that the present invention requires a terminal device, and **the terminal device is the sole device carried by the individual**. The Examiner respectfully disagrees. Specifically, noting that the Bridgelall reference shows that it is known in the art to combine a PDA of Moores and RFID tag of Bridgelall. Bridgelall teaches that a RFID tag can be added to mobile units such as cell phones and personal digital assistants (PDA's) (Para 24). Bridgelall overcomes the limitation of "the terminal device is the sole device carried by the individual".

The Examiner agrees that Moores teaches [An] RFID scanner 16 is arranged at the top of a slope, while an image capture device 15 is positioned downhill of the scanner 16. An infrared sensor 51 is arranged to detect a skier breaking an infrared light beam 52 provided by an infrared source 53. In this embodiment, the camera 15 is enabled to capture an image or series of images by detection of a RFID tag carried by a skier, as shown in steps 71, 73, of Fig. 8. The camera 15 is then triggered to take a picture of the skier when the skier breaks the infrared beam or at a selected delay interval thereafter, as shown in step 77 (Para 47). Moores also teaches an operation of the system of FIG. 2 is illustrated in the flow diagram of FIG. 3. In the first step 51, the skiers pass the RFID reader 23 as they enter the gondola car 16. Next, in step 53, the RFID reader 23 reads the tag(s) carried by the respective skiers. Reading the first tag

triggers the camera 15 to begin capturing a sequence of images of the individuals within its field of view, as illustrated in step 55. The field of view can be selected; for example, to capture images of persons seated in a particular seating area, thus enabling skiers to pose together, if desired. A button or switch may also be provided so that reading of the RFID tags prepares the camera 15 to take a picture and skier-activation of the button or switch actually triggers the camera 15 to begin taking pictures. Thus, the RFID tag detection and switch activation are logically "AND'd" to trigger the camera 15 to begin capturing images (Para24).

Thus the above reasons, the Examiner believes that Moores in view of Bridgelall do teach the limitations of claims 1, 10, 12, and 18.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher K. Peterson whose telephone number is 571-270-1704. The examiner can normally be reached on Monday - Friday 6:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CKP
23 January 2008


NGOC-YEN VU
SUPERVISORY PATENT EXAMINER